

RECEIPT # 65744
 AMOUNT \$ 2.50
 SUMMONS ISSUED W/F
 LOCAL RULE 4.1 _____
 WAIVER FORM _____
 MCF ISSUED _____
 BY DPTY. CLK. 7:27:01
 DATE 7:27:01

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MASSACHUSETTS

JUL 20 P 5:31

MICHAEL SHERMAN,

 Plaintiff,

 VISION LAB TELECOMMUNICATIONS,
 INC., ON DEMAND MARKETING LLC,
 RANDY THOMASON, HIGHLAND
 MARKETING LLC, BELL SOUTH
 CORPORATION, TELEDATA SOLUTIONS,
 INC., and THE SUPPORT GROUP IN SWEDEN,
 AB,

Defendants.

05 11545 NG

MAGISTRATE JUDGE Soroka

**NOTICE OF REMOVAL TO FEDERAL COURT
 PURSUANT TO 28 U.S.C. §§ 1332, 1441 and 1446**

Defendant, VISION LAB TELECOMMUNICATIONS, INC., a Florida Corporation ("Defendant" or "Vision Lab") by its attorneys, Goulston & Storrs P.C., pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 hereby gives notice of removal of proceedings in the Trial Court of Massachusetts, Superior Court Department, Middlesex County between the above-captioned parties bearing Civil No. MICV2004-05030 to the United States District Court for the District of Massachusetts for the reasons set forth below.

1. Removal is authorized pursuant to 28 U.S.C. § 1441(a) where the District Courts of the United States have original jurisdiction. The District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 where the matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs and is between citizens of different states. As set forth below, these requirements are met.

2. Plaintiff Michael Sherman ("Sherman") has alleged that he resides at 54 Knowles Road, Watertown, Massachusetts 02472.

3. Defendant Vision Lab is a corporation organized and existing under the laws of the State of Florida with its principal place of business at 1680 Michigan Avenue, Suite 1106, Miami Beach, Florida 33139.

4. The Complaint alleges that defendant On Demand Marketing LLC is a Californian limited liability company with its principal place of business in Costa Mesa, California.

5. The Complaint alleges that defendant Randy Thomason is an individual residing in Costa Mesa, California.

6. The Complaint alleges that defendant Highland Marketing LLC is an alien limited liability company with its principal place of business in Gibraltar.

7. The Complaint alleges that defendant Bellsouth Corporation is a Georgia corporation with its principal place of business in Atlanta, Georgia.

8. The Complaint alleges that defendant Teledata Solutions, Inc. is a Nevada corporation with its principal place of business in Westlake Village, California.

9. The Complaint alleges that defendant The Support Group of Sweden AB is a Swedish limited liability company with its principal place of business in Stockholm, Sweden.

10. The only process, pleadings, or order received by defendants in this action is a summons and complaint dated June 20, 2005 ("Summons" and "Complaint"), which was received by defendant Vision Lab on June 22, 2005. A copy of the Summons is annexed hereto as Exhibit A and the Complaint is annexed hereto as Exhibit B.

11. Accordingly, there is complete diversity of citizenship among the parties to this action.

12. As of July 20, 2005, only defendants Vision Lab, Bellsouth Corporation and Teledata Solutions, Inc. had been served with summons and complaints. However, both Bellsouth Corporation and Teledata Solutions, Inc. have advised counsel to Vision Lab that they contest personal jurisdiction in Massachusetts and assert that service of process on them has not been properly effected.

13. Sherman's claims against Bellsouth Corporation and Teledata Solutions, Inc. are exclusively for a bill of discovery. Accordingly, they are not necessary or true parties in interest in this litigation. Further, their claims, standing alone would not be subject to removal. Therefore, their consent to removal is not required pursuant to the Rule of Unanimity. *See Shepard v. Egan*, 767 F. Supp. 1158, 1161 and fn. 3 (D. Mass. 1990).

14. Nevertheless, Samuel Cohen of Neal Gerber Eisenberg LLP in Chicago, Illinois, acting of counsel to Vision Lab has contacted each of Bellsouth Corporation and Teledata Solutions Inc. directly and obtained their consent to this Notice of Removal.

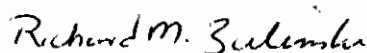
15. The Complaint alleges "upon information and belief" that Vision Lab transmitted at least 55 unsolicited facsimile advertisements to Sherman's fax machine in violation of 47 U.S.C. § 227; 47 C.F.R. §§ 64.1200, 64.1601(e), and 68.318(d); Mass. G.L. c. 159C; and Regulations of the Massachusetts Office of Consumer Protection and Business Regulation, including 201 C.M.R. §§ 12.00 *et seq.*

16. Plaintiff seeks damages from Vision Lab of up to \$6,500 for each alleged violating facsimile, or in excess of \$350,000. Accordingly, the amount in controversy meets the requirement of 28 U.S.C. § 1332(a).

17. This Court, therefore, has original jurisdiction of this matter based on the diversity of citizenship of the parties and removal is proper pursuant to 28 U.S.C. §§ 1441 and 1446.

VISION LAB TELECOMMUNICATIONS, INC.,

By its attorneys,



Richard M. Zielinski (BBO #540060)
GOULSTON & STORRS, P.C.
400 Atlantic Avenue
Boston, MA 02110-3333
(617) 482-1776

Of Counsel:
Samuel S. Cohen
Neal Gerber Eisenberg LLC
2 North LaSalle Street
Suite 2200
Chicago, IL 60602

Dated: July 20, 2005

NGEDOCs: 1178463.1

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —
TORT — MOTOR VEHICLE TORT — CONTRACT —
EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
DEPARTMENT
OF THE
TRIAL COURT
CIVIL ACTION
No. MCV1004-05030

MIDDLESEX , ss
[seal]

Michael Sherman , Plaintiff(s)

Vision Lab Telecommunications, Inc.,
On Demand Marketing LLC,
Randy Thomason, Defendant(s)
Highland Marketing LLC,
Teledata Solutions, Inc.,
The Support Group in Sweden, AB

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve upon Walter Oney, Esq.
plaintiff's attorney, whose address is 4 Longfellow Place
Boston, MA 02114, an answer to the complaint which is herewith
served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you
fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
required to file your answer to the complaint in the office of the Clerk of this court at 40 Thorncliffe St.
Cambridge, MA 02141 either before service upon plaintiff's attorney or within a
reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's
claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse
the 20th day of June
in the year of our Lord 2005

Edward J. Sullivan
Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

TRIAL COURT OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT
MIDDLESEX COUNTY

MIDDLESEX, ss.

Civil No. MICV2004-05030

MICHAEL SHERMAN,)
Plaintiff)
v.)
VISIONLAB TELECOMMUNICATIONS,)
INC.,)
ON DEMAND MARKETING LLC,)
RANDY THOMASON,)
HIGHLAND MARKETING LLC,)
BELLSOUTH CORPORATION,)
TELEDATA SOLUTIONS, INC.,)
and)
THE SUPPORT GROUP IN SWEDEN, AB,)
Defendants

FIRST AMENDED COMPLAINT

1. The Plaintiff brings this action to obtain statutory damages on account of unsolicited facsimile advertisements he received on the fax machine located in his home during 2004 and in order to learn the identities and locations of unknown persons and entities responsible for sending such unsolicited facsimile advertisements.

PARTIES

2. The Plaintiff is a natural person residing at 54 Knowles Road, Watertown, MA 02472.

3. On information and belief, Defendant VISIONLAB TELECOMMUNICATIONS, INC., (VISCNLAB) is a corporation duly organized and existing under the laws of the

State of Florida and having its principal place of business at 1680 Michigan Ave., Suite 1106, Miami Beach, FL 33139.

4. On information and belief, Defendant ON DEMAND MARKETING, LLC, (ON DEMAND) is a limited liability company duly organized and existing under the laws of the State of California and having its principal place of business at 426 16th Place, Costa Mesa, CA 92627.

5. On information and belief, Defendant RANDY THOMASON (THOMASON) is an individual residing or having a place of business at 426 16th Place, Costa Mesa, CA 92627.

6. On information and belief, Defendant HIGHLAND MARKETING LLC (HIGHLAND) is a limited liability company duly organized and existing under the laws of the City of Gibraltar and having a place of business in care of Portland House, Glacis Road, Gibraltar.

7. On information and belief, Defendant BELLSOUTH CORPORATION (BELLSOUTH) is a corporation duly organized and existing under the laws of the State of Georgia and having its principal place of business at 1155 Peachtree St., N.E., Atlanta, GA 30309-3510.

8. On information and belief, Defendant TELEDATA SOLUTIONS, INC. (TELEDATA) is a corporation duly organized and existing under the laws of the State of Nevada and having its principal place of business at 200 No. Westlake Blvd., Suite 104, Westlake Village, CA 91362.

9. On information and belief, Defendant THE SUPPORT GROUP IN SWEDEN AB (SUPPORT GROUP) is a limited liability entity duly organized and existing under the

laws of Sweden and having its principal place of business at Liljeholmsvägen 18, SE-11761 Stockholm, Sweden.

FACTS

10. At all times relevant to this action, the Plaintiff has subscribed for residential telephone service under the number 617-923-1329.

11. At all times relevant to this action, the Plaintiff has connected a facsimile machine to 617-923-1329, which machine is capable of transcribing text and images from an electronic signal received over a regular telephone line onto paper.

12. The Plaintiff placed his telephone number 617-923-1329 on the National Do Not Call Registry on August 6, 2003 and on the Massachusetts do-not-call list effective January 1, 2004.

13. Between April 30, 2004 and December 15, 2004, the Plaintiff received more than 90 unsolicited facsimile advertisements on his facsimile machine connected to 617-923-1329.

14. Some of said advertisements have arrived between 8:00 p.m. and 8:00 a.m., local time.

15. None of said advertisements indicates the identity or location of the sender or the true name and location of the advertiser.

16. The Plaintiff is informed and believes that the senders and advertisers of said advertisements have violated one or more of the federal Telephone Consumer Protection Act of 1991 (TCPA), 47 U.S.C. § 227; regulations of the Federal Communications Commission thereunder including, without limitation, 47 C.F.R. §§ 64.1200, 64.1601(e), and 68.318(d); the Massachusetts Telephone Solicitation Law, G.L. c. 159C; and

regulations of the Office of Consumer Protection and Business Regulation thereunder, including, without limitation, 201 C.M.R. §§ 12.00 *et seq.*, (collectively referred to herein as "said telemarketing statutes and regulations"). These statutes and regulations provide a private right of action to seek damages up to \$6,500 for each violation.

COUNT 1
CLAIMS AGAINST VISIONLAB

17. The Plaintiff repeats the allegations of paragraphs 1, 2, 3, and 10-16.

18. The Plaintiff is informed and believes that at least 55 of the unsolicited facsimile advertisements he received as so alleged were transmitted by VISIONLAB.

19. The Plaintiff is further informed and believes that VISIONLAB had substantial involvement in one or more of the following activities, to wit: designing said advertisements, choosing the telephone numbers to which such advertisements were sent, controlling the information supplied in marginal headings on such advertisements, controlling the caller identification information supplied to common carriers during the transmission of such advertisements, contracting for so-called number removal services furnished by SUPPORT GROUP and other parties, and actually transmitting said advertisements.

WHEREFORE the Plaintiff demands judgment against VISIONLAB for actual and statutory damages, and the reasonable fees of his attorney, pursuant to said telemarketing statutes and regulations.

COUNT 2
CLAIMS AGAINST ON DEMAND AND THOMASON

20. The Plaintiff repeats the allegations of paragraphs 1, 2, 4, 5, and 10-16.

21. The Plaintiff is informed and believes that at least 3 of the unsolicited facsimile advertisements he received as so alleged were transmitted on behalf of ON DEMAND.

22. The Plaintiff is further informed and believes that THOMASON was at all times relevant to this action in actual charge of the day-to-day operations of ON DEMAND and had substantial involvement in the design of said advertisements, in the decision to transmit them by fax to the Plaintiff, in the selection of telephone numbers to which said advertisements would be transmitted, and in contracting with VISIONLAB and others to transmit such advertisements by fax to the Plaintiff on behalf of ON DEMAND and on his own behalf.

WHEREFORE the Plaintiff demands judgment against ON DEMAND and THOMASON, jointly and severally, for actual and statutory damages, and the reasonable fees of his attorney, pursuant to said telemarketing statutes and regulations.

COUNT 3
CLAIMS AGAINST HIGHLAND MARKETING

23. The Plaintiff repeats the allegations of paragraphs 1, 2, 6, and 10-16.

24. The Plaintiff is informed and believes that at least 2 of the unsolicited facsimile advertisements he received as so alleged were transmitted on behalf of HIGHLAND MARKETING.

25. The Plaintiff is further informed and believes that HIGHLAND MARKETING had substantial involvement in the design of said advertisements, in the decision to transmit them by fax to the Plaintiff, in the selection of telephone numbers to which said advertisements would be transmitted, and in contracting with VISIONLAB and others to transmit such advertisements by fax to the Plaintiff on behalf of HIGHLAND MARKETING.

WHEREFORE the Plaintiff demands judgment against HIGHLAND MARKETING for actual and statutory damages, and the reasonable fees of his attorney, pursuant to said telemarketing statutes and regulations.

COUNT 4
CLAIM AGAINST BELLSOUTH FOR BILL OF DISCOVERY

26. The Plaintiff repeats the allegations of paragraphs 1, 2, 7, and 10-16.

27. The Plaintiff has obtained business records, duly authenticated under oath pursuant to G.L. c. 233, § 78, from telephone common carriers tending to show that some of the telephone calls described in paragraph 13 originated from a BELLSOUTH subscriber.

28. BELLSOUTH refused on March 4, 2005, to identify the subscriber or subscribers responsible for said telephone calls except in response to a subpoena issued by a court in Georgia, Florida, South Carolina, North Carolina, Mississippi, Louisiana, Tennessee, Kentucky, or Alabama, or to a subpoena issued by a federal court and domesticated within one of those states.

29. The Plaintiff is informed and believes that federal courts lack subject matter jurisdiction over cases arising under the TCPA and that, in consequence, he cannot file suit in a federal court in order to utilize the third-party discovery mechanisms provided in the Federal Rules of Civil Procedure.

30. The records of the Secretary of the Commonwealth show that many subsidiaries of BELLSOUTH are either incorporated in Massachusetts or have registered as foreign corporations in Massachusetts.

31. The Plaintiff avers that BELLSOUTH derives substantial revenue from providing telecommunication services to residents of the Commonwealth and from carrying long distance traffic to and from residents of the Commonwealth.

32. The Plaintiff further avers that he cannot know in which state to commence an action on his substantive claims without obtaining information that is presently in the exclusive possession of BELLSOUTH and that, in consequence, the conditions imposed by BELLSOUTH on providing that information are manifestly unreasonable.

33. The Plaintiff therefore avers that this court may exercise personal jurisdiction over BELLSOUTH pursuant to the Massachusetts Long Arm statute, G.L. c. 223A, § 3 and may compel BELLSOUTH to provide to the Plaintiff the information that the Plaintiff needs in order to identify the person or persons responsible for the telephone calls referred to in paragraph 13.

WHEREFORE the Plaintiff prays that the court might allow his bill of discovery against BELLSOUTH for the purpose of more particularly determining who is responsible for transmitting the facsimile advertisements referred to in paragraph 13.

COUNT 5
CLAIM AGAINST TELEDATA FOR BILL OF DISCOVERY

34. The Plaintiff repeats the allegations of paragraphs 1, 2, 8, and 10-16.

35. The Plaintiff is informed and believes that at least twenty of the faxes complained of herein carry a toll-free "removal" number assigned to TELEDATA as Responsible Organization.

36. On January 6, 2005, in response to a subpoena issued in this case, TELEDATA provided to the Plaintiff an affidavit to the effect that each of twenty specified toll-free numbers, which the Plaintiff says appear as "removal" numbers on some of the faxes

complained of herein, were subscribed for by SUPPORT GROUP. TELEDATA supplied on January 14, 2005, a list of several hundred toll-free numbers for which TELEDATA is the Responsible Organization and SUPPORT GROUP is the subscriber.

37. On February 9, 2005, after two follow-up requests by the Plaintiff, TELEDATA provided codes identifying the circuits to which the toll-free numbers assigned to SUPPORT GROUP connect. Qwest Communications, the putative provider of the circuits so identified, has no record of circuits having such codes. TELEDATA has therefore not identified said circuits with sufficient specificity to allow the Plaintiff to determine whether a United States entity receives such calls or to determine the physical terminus of such calls.

38. The Plaintiff avers that he requires the information described in the preceding paragraph in order to more certainly identify the person or persons who placed the telephone calls referred to in paragraph 13.

39. The Plaintiff further avers that TELEDATA derives substantial revenue from wholesaling toll-free numbers, including the so-called "removal" numbers appearing on the faxes complained of in his action, that it should reasonably expect to be dialed by residents of Massachusetts.

40. The Plaintiff therefore avers that this court may exercise personal jurisdiction over TELEDATA pursuant to the Massachusetts Long Arm statute, G.L. c. 223A, § 3.

WHEREFORE the Plaintiff prays that the court might allow his bill of discovery against TELEDATA for the purpose of more particularly determining who is responsible for transmitting the facsimile advertisements referred to in paragraph 13.

COUNT 6
CLAIMS AGAINST SUPPORT GROUP

41. The Plaintiff repeats the allegations of paragraphs 1, 2, 9, and 10-16.

42. The Plaintiff has obtained business records, duly authenticated under oath pursuant to G.L. c. 233, § 78, from TELEDATA tending to show that twenty of the faxes complained of herein carry a toll-free "removal" number subscribed for by SUPPORT GROUP.

43. The Plaintiff is informed and believes that one or more fax broadcasting companies, including the person or persons who placed the telephone calls referred to in paragraph 13, have entered into contracts with SUPPORT GROUP, pursuant to which SUPPORT GROUP provides a toll-free automated response service whereby a consumer may register a request to have the consumer's fax number removed from the database or list of fax numbers used by said fax broadcasting companies.

44. The Plaintiff avers that SUPPORT GROUP derives substantial revenue by providing a toll-free automated response service that it should reasonably expect to be used by residents of Massachusetts.

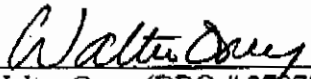
45. The Plaintiff therefore avers that this court may exercise personal jurisdiction over SUPPORT GROUP pursuant to the Massachusetts Long Arm statute, G.L. c. 223A, § 3.

46. The Plaintiff further avers that SUPPORT GROUP has so entered into contracts, and so derives substantial revenue, in the knowledge that it is thereby aiding and abetting, and for the purpose of aiding and abetting, VISIONLAB in flouting said statutes and regulations on a massive scale.

WHEREFORE the Plaintiff demands judgment against SUPPORT GROUP for actual and statutory damages, and the reasonable fees of his attorney, pursuant to said telemarketing, statutes and regulations.

Dated: June 16, 2005

MICHAEL SHERMAN, by his attorney,



Walter Oney (BBO # 379795)
4 Longfellow Place
Boston, MA 02114
Tel: 617-227-5620
Fax: 617-227-5760

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Michael Sherman

(b) County of Residence of First Listed Plaintiff Middlesex, MA

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Walter Oney, Esq.

4 Longfellow Place, Boston, MA 02114

DEFENDANTS

Vision Lab Telecommunications, Inc. et al.

County of Residence of First Listed Defendant Miami-Dade, Florida

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE

LAND INVOLVED

Attorneys (known)

Richard M. Zielinski, Esq., Ethan A. McKittrick, Esq.

Goulston & Storrs, P.C., 400 Atlantic Avenue, Boston, MA 02110

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 1332, 1441 and 1446

Brief description of cause: Removal of action, on the basis of diversity, of complaint alleging violations of the Telephone Consumer Protection Act, FCC regulations, and state statutes.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
over \$350,000CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/20/2005

SIGNATURE OF ATTORNEY OF RECORD

Richard M. Zielinski

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Sherman v. Vision Labs Telecommunications, Inc.
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
YES ☐ NO ☒
If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
YES ☐ NO ☒
- A. If yes, in which division do all of the non-governmental parties reside?
Eastern Division ☐ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
Eastern Division ☒ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

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